

JAMAL AUSTIN,
Plaintiff
v.
COUNTY OF ALAMO
Defendant

Case No. 15-cv-00763-HSG

ORDER TO SHOW CAUSE

COUNTY OF ALAMEDA, et al.,
Defendants

On July 2, 2015, the Court granted in part the motion filed by Defendants County of Alameda, Glenn Tafolla and Franz Gonzalez to dismiss *pro se* Plaintiff Jamal Austin's complaint. Dkt. No. 17. Following a written reminder and an extension of time, Plaintiff filed his second amended complaint on August 10. Dkt. Nos. 18, 20.

On August 31, Defendants filed a motion to dismiss Plaintiff's second amended complaint and noticed a hearing for October 8. Dkt. No. 24. On September 30, Plaintiff filed a letter stating that he would be unable to attend the October 8 hearing because he lacked proper identification, had "no funds," and was "under health care provider restrictions." Dkt. No. 27. Plaintiff also claimed he had never received a copy of the July 2 Order. *Id.* In response, the Court mailed Plaintiff a letter allowing him to enter the courthouse without identification, and an additional copy of the July 2 Order. Dkt. No. 29. Plaintiff nevertheless failed to appear at the October 8 hearing.¹

¹ Plaintiff continues to claim that he never received a copy of the July 2 Order. Dkt. No. 33. However, Plaintiff admits that he received a copy of the letter allowing him to enter the courthouse without identification for the October 8 hearing, *id.*, and a copy of the July 2 Order was included in the same envelope as that letter, Dkt. No. 29. The Court therefore does not find Plaintiff's claim that he did not receive a copy of the July 2 Order credible.

At the October 8 hearing, the Court set a case management conference for October 20 and mailed Plaintiff another letter allowing him to enter the courthouse without identification. Dkt. No. 31. Defendants represent that they attempted to contact Plaintiff in preparation for the case management conference, but he was “unreachable and unresponsive to defense counsel’s telephone messages.” Dkt. No. 32. Once again, Plaintiff failed to appear at the October 20 case management conference.

This case must be dismissed if Plaintiff refuses to participate in the litigation.

Accordingly, Plaintiff is ORDERED TO SHOW CAUSE why this case should not be dismissed for failure to prosecute. On or before October 30, 2015, Plaintiff shall respond to this order in a written statement of no more than five pages. Defendants shall file any response by November 6, 2015. A telephonic hearing on the matter will be held on November 10, 2015, at 3:00 p.m. The Court will initiate the telephone call to Plaintiff. Defendants' counsel shall contact CourtCall at (866) 582-6878 to make arrangements for the telephonic appearance.

IT IS SO ORDERED.

Dated: October 21, 2015

Haywood S. Gilliam, Jr.
HAYWOOD S. GILLIAM, JR.
United States District Judge